



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-919]

Certain Archery Products and Related Marketing Materials; Issuance of a Limited Exclusion Order Against the Respondent Found in Default; Termination of the Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a limited exclusion order against certain archery products and related marketing materials of Ningbo Topoint Outdoor Sports Co., Ltd. ("Ningbo Topoint"). The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 16, 2014, based on a complaint filed by Bear Archery, Inc. and SOP Services, Inc. (“Complainants”), 79 FR 34356. The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“section 337”), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain archery products and related marketing materials by reason of infringement of certain claims of U.S. Patent No. RE38,096 (“the ’096 patent”); U.S. Patent No. 6,978,775 (“the ’775 patent”); U.S. Trademark Registration No. 2,501,255 (“the ’255 mark”); and U.S. Trademark Registration No. 3,312,392 (“the ’392 mark”). *Id.* The complaint further alleges the existence of a domestic industry. *Id.* The Commission’s notice of investigation named Ningbo Topoint as the only respondent, and indicated that the Office of Unfair Import Investigations is participating in this investigation. *Id.*

On September 2, 2014, the ALJ ordered Ningbo Topoint to show cause why it should not be found in default. *See* Order No. 10. No response to Order No. 10 was filed. On September 16, 2014, the ALJ issued an initial determination finding Ningbo Topoint in default under Commission Rule 210.16(a)(1) (19 CFR 210.16(a)(1)). *See* Order No. 11. On October 16, 2014, the Commission determined not to review the initial determination.

The Commission requested briefing from the parties and the public on the issues of remedy, the public interest, and bonding. The Commission received responsive submissions from Complainants and the Commission Investigative Attorney (“IA”) on October 30, 2014, and a reply submission from the IA on November 6, 2014. The

submissions agreed that the appropriate remedy is the entry of a limited exclusion order against Ningbo Topoint, that the public interest factors do not weigh against granting such a limited exclusion order, and that bonding should be set at 100 percent of the entered value of the infringing products.

The Commission finds that the statutory requirements of section 337(g)(1) (19 U.S.C. 1337(g)(1)) and Commission Rule 210.16(a)(1) (19 CFR 210.16(a)(1)) are met with respect to Ningbo Topoint. Accordingly, pursuant to section 337(g)(1) (19 U.S.C. § 1337(g)(1)) and Commission Rule 210.16(c) (19 CFR 210.16(c)), the Commission presumes the facts alleged in the complaint to be true and finds that Ningbo Topoint is in violation of section 337.

The Commission has determined that the appropriate form of relief in this investigation is a limited exclusion order prohibiting the unlicensed entry of archery products and related marketing materials that are manufactured abroad by or on behalf of, or imported by or on behalf of, Ningbo Topoint that infringe one or more of claims 1-3, 6-12, and 15-38 of the '096 patent and claims 1-3, 16-22, 24-26, 29, 31, and 32 of the '775 patent, or infringe the '255 or '392 marks. The Commission has further determined that the public interest factors enumerated in section 337(g)(1) (19 U.S.C. § 1337(g)(1)) do not preclude the issuance of the limited exclusion order. Finally, the Commission has determined that the bond for importation during the period of Presidential review shall be in the amount of 100 percent of the entered value of the imported subject articles of Ningbo Topoint. The Commission's order was delivered to the President and the United States Trade Representative on the day of its issuance.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Dated: December 3, 2014.

Lisa R. Barton,
Secretary to the Commission.

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[FR Doc. 2014-28765 Filed 12/08/2014 at 8:45 am; Publication Date: 12/09/2014]